



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 13, 2008

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letter, dated June 5, 2008, which requested production of or access to FBI interview reports concerning the Department's criminal investigation in the disclosure of Ms. Plame's identity on the same terms as provided to the Committee on Oversight and Government Reform (Oversight Committee).


In response to Chairman Waxman's request and based upon consultation with the White House representatives, the Department provided the Oversight Committee staff with access to FBI reports of interviews (302s) of presidential and vice presidential staff in connection with our investigation. The executive branch has substantial confidentiality interests in these documents, which have been created and maintained by the Department but consist of White House information. Consistent with longstanding executive branch practice, the executive branch worked hard to develop an accommodation for the Oversight Committee that in our view met the Committee's needs consistent with executive branch confidentiality interests. That Committee, to which the House has provided oversight responsibility for the entire executive branch, has been conducting an extensive investigation over many months into the disclosure of Ms. Wilson's identity. As explained in the Oversight Committee's June 3, 2008 letter to the Department, the Committee states that the purpose of its investigation has been "to examine: (1) How did such a serious violation of our national security occur? (2) Did the White House take appropriate investigative and disciplinary steps after the breach occurred? And (3) what changes in White House security procedures are necessary to prevent future violations of our national security from occurring?" As an accommodation of the Committee's interest in this matter, the executive branch determined to provide Committee staff with access to certain relevant 302s of Presidential and Vice Presidential staff (with limited redactions).

The Honorable John Conyers, Jr.
Page Two

In contrast to the Oversight Committee, however, the Judiciary Committee does not have government-wide oversight jurisdiction and it does not have jurisdiction over the White House. Committee staff has indicated that in this newly-initiated inquiry, the Committee's interest focuses on alleged White House attempts to cover up the involvement of White House officials in the leak and whether such attempts constitute an obstruction of justice or other violation of federal criminal law. While we appreciate that the Committee has oversight authority over the Department of Justice, we do not understand how the Committee's jurisdiction could extend to the alleged conduct at the White House. Nor do we understand how the Committee's inquiry will cover areas not currently subject to the Oversight Committee's lengthy investigation. Additionally, we note that it is the responsibility of this Department to investigate possible violations of the criminal law, not the responsibility of any committee of Congress. Moreover, this theory of oversight jurisdiction would suggest that the Judiciary Committee could investigate allegations of this kind anywhere in the executive branch. We are not aware that the Committee has exercised this kind of jurisdiction in the past. Accordingly, the executive branch is not in a position to consider offering any accommodation with respect to the requested White House 302s at this time. As always, we are available to discuss the matter further if you believe we misapprehend the nature of your interest.

Please do not hesitate to contact this Office if you would like additional assistance regarding this or any other matter.

Sincerely,


for Keith B. Nelson
Principal Deputy Assistant Attorney General

cc: The Honorable Lamar Smith
Ranking Minority Member